

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

MJC Investments, LLC,
Appellant,

v.

Linn County Board of Review,
Appellee.

ORDER

Docket No. 14-57-0299
Parcel No. 17022-01002-00000

On January 8, 2015, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Owner Michael Clark represented MJC Investments. Assistant County Attorney Gary Jarvis was counsel for the Board of Review. Deputy Assessor Caleb Howard represented it at hearing and participated by phone. Both parties submitted evidence and testimony in support of their positions. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

MJC Investments, LLC, is the owner of a commercially classified property located at 1151 and 1155 Highway 1, Mount Vernon, Iowa. The 5.42-acre parcel is improved with five outbuildings identified in the following chart.

Size/Style	Year Built	Use
7200 sq. ft. Steel Utility Bldg	2009	Pioneer Seed Business
900 sq. ft. Steel Utility Bldg	2009	Office for Pioneer Seed Business
3360 sq. ft. Steel Utility Bldg	1978	Personal Storage Use
2560 sq. ft. Pole Barn	1950	Cattle/Pig Shed
1024 sq. ft. Utility Bldg	1950	Hay/Feed Storage (Machine Shed)

MJC protested its 2014 assessment of \$202,000, allocated as \$74,200 in land value and \$127,800 in improvement value, to the Board of Review. MJC claimed that the subject property was misclassified under Iowa Code section 441.37(1)(a)(1)(c). The Board of Review denied the protest.

MJC then appealed to this Board reasserting that the parcel should be reclassified as agricultural. It does not seek a change in value. We note, since agricultural property is valued differently than commercial property, a classification change would necessitate a revaluation.

Michael Clark, owner of MJC, testified there was formerly a residence on the property that burnt down in 2012 and was ultimately demolished. As a result, the classification was changed from residential to commercial for the 2014 assessment year. Clark stated that he discussed the possibility of a building on leased land designation for the property with the Assessor's office and that would still be acceptable to him.

Clark testified that he operates his Pioneer Seed Business on the subject site under the business name Abbe Creek Ag., Inc. Clark testified that Abbe Creek rents the buildings it uses from MJC. There is also a utility building on the property that he uses for personal storage.

Clark also testified that two additional buildings used for his cattle business and a few pigs his children raise for 4-H projects. He maintains that he makes a profit with his cattle business; however, the primary income generated on the site is from the seed business. Further, Clark stated that he files a Schedule F; however, it was not provided to this Board for review.

Clark explained that, in his opinion, roughly 2.95 acres of the 5.42-acre site are devoted to his cow/calf operation, which includes roughly six head of cattle. He operates a cattle-calf operation in which approximately four to six calves are born and raised on the property and then sold at the beginning of the year to another cattle producer. He also rents approximately 8-acres of adjoining land to the south for the cattle operation. Clark stated his cattle operation is a separate business entity and the cows move between the subject site and his father's cattle operation that is located in a different

area and not adjacent or near the subject property. On occasion, he also has some of his father's cattle on his site. Additionally, he bales some alfalfa from the pasture, which he uses as feed for the cattle. Lastly, he explained the pigs are "his kids' 4-H project," and they are on the subject site from roughly March to June and are not ranged but rather contained to the barn.

The Board of Review submitted comparable property information it considered for this appeal. (Exhibit F). Ultimately, we do not find this information helpful in determining the correct classification of the subject property and give it no consideration.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2014). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). However, if property is classified agricultural it is to be assessed and valued based on its productivity and net earning capacity. § 441.21(1)(e).

The Iowa Department of Revenue has promulgated rules for the classification and valuation of real estate. *See* Iowa Admin. r. 701-71.1. Classifications are based on the best judgment of the assessor exercised following the guidelines set out in the rule. *Id.* Boards of Review, as well as assessors, are required to adhere to the rules when they classify property and exercise assessment functions. *Id.* r. 701-71.1(2). “Under administrative regulations adopted by the . . . Department . . . the determination of whether a particular property is ‘agricultural’ or [residential] is to be decided on the basis of its primary use.” *Sevde v. Bd. of Review of City of Ames*, 434 N.W.2d 878, 880 (Iowa 1989). There can be only one classification per property. Iowa Admin. r. 701-71.1(1). However, “a building or structure on leased land is considered a separate property and may be classified differently than the land upon which it is located.” *Id.*

By administrative rule, commercial property shall include

all lands and improvements and structures located thereon which are primarily used or intended as a place of business where goods, wares, services, or merchandise is stored or offered for sale at wholesale or retail.

Iowa Admin. Code r. 701-71.1(6).

Conversely, agricultural property

shall include all tracts of land and the improvements and structures located on them which are in good faith used primarily for agricultural purposes except buildings which are primarily used or intended for human habitation as defined in subrule 71.1(4). Land and the nonresidential improvements and structures located on it shall be considered to be used primarily for agricultural purposes if its principal use is devoted to the raising and harvesting of crops or forest or fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit.

...

Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in this subrule.

Iowa Admin. Code r. 701-71.1(3).

MJC Investments seeks to have its property reclassified from commercial to agricultural or, in the alternative, to have the commercial enterprise treated as a building on leased land. The Board of

Review challenges that the property's primary use is for its commercial seed business and not agricultural use, and there can be only one classification per parcel.

First, the testimony indicates that Abbe Creek merely leases the building from MJC, but does not own the building nor have a lease to the land. MJC holds legal title to both the building and the land. Simply, the building was not erected by a person other than the owner of the land. *See* § 428.4 (describing buildings on leased land and their taxation and stating, "If such buildings or improvements are erected or made by any person other than the owner of the land, they shall be listed and assessed to the owner of the buildings or improvements as real estate."). Thus, it would be imprudent to separately tax and assess the subject building as a building on leased land as the permanent improvement is not a property with separate ownership. Iowa Admin. r. 701-71.1(1); *see also* r. 701-80.30(1)(3).

Second, the testimony demonstrates the property is used both for commercial and agricultural purposes. The site is partially used for a small cow/calf operation, as well as housing some pigs for 4-H projects for a portion of the year. In addition, a portion of the property is used for alfalfa production, which is used for feeding the housed livestock. In total, Clark testified this accounts for roughly 2.95 acres of the 5.24 acre site. Two of the five outbuildings are used for this purpose. Clark testified he intends to and, in fact, does operate at a profit, but did not submit any other evidence substantiating this assertion.

Conversely, the property is also used as a commercial seed business. Clark's testified that the primary income generated from the subject site is from his Pioneer Seed business operated as Abbe Creek Ag, Inc. The business is operated out of an office and utility building located on the property. In addition, another building on the site is used for personal storage.

Where, as here, multiple uses are made of a property, the question of the correct property assessment classification can be difficult. Ultimately, however, it is the taxpayer's burden to establish the grounds of the appeal by a preponderance of the evidence. § 441.21(3). Based on the minimal

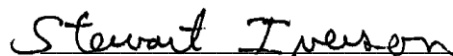
evidence showing the agricultural activities on the property are done with an intent to profit, we find that MJC Investments has not shown by a preponderance of the evidence that the subject property meets the criteria for agricultural classification at this time.

THE APPEAL BOARD ORDERS the January 1, 2014, assessment of MJC Investment's property located at 1155 Highway 1, Mount Vernon, Iowa, is affirmed.

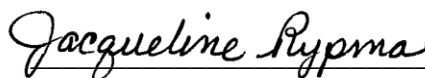
Dated this 13th day of March, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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